

Significant Legislative Rule Analysis
WAC 246-322-180; 246-322-010
a Rule Concerning
Patient Safety and Seclusion Care
in Private Psychiatric Hospitals
July 21, 2015

Describe the proposed rule, including a brief history of the issue, and explain why the proposed rule is needed.

The Department of Health hospital program is proposing rulemaking to clarify that a psychiatric advanced registered nurse practitioners (PARNP) or physician's assistant (PA) may exercise the same authority as physicians regarding the restraint and seclusion of psychiatric patients in private psychiatric hospitals. Ordering restraint and seclusion is already within the scope of practice for PARNPs and PAs. This clarification will allow medical directors to create hospital policies that let PARNPs and PAs practice to their full scope. It may also create efficiencies allowing for greater continuity of patient care and greater scheduling flexibility for hospitals and providers. In addition, the definition of PARNP will be added to WAC 246-322-010.

In 2009, legislation passed (chapter 217, laws of 2009) to specifically add psychiatric advanced registered nurse practitioners (PARNP) among mental health professionals who can recommend and provide certain mental health treatment related services, including signature authority for certain petitions and treatment. The legislation implied that ordering restraint and seclusion was within the scope of practice for PARNPs. In addition, the Medical Quality Assurance Commission (MQAC) and the Board of Osteopathic Medicine and Surgery (BOMS) recognize that, if included in the delegation agreement, ordering restraint and seclusion is also within the scope of practice of a PA.

Despite the allowance in the PARNP and PA scope of practice, WAC 246-322-180 only gives physicians the authority to examine the patient and renew seclusion or restraint orders. This impacts continuity of care and decreases efficiencies in providing care. Medical directors of private psychiatric hospitals are hesitant to allow PARNPs or PAs the ability to order restraint and seclusion out of concern that their hospital policy would be inconsistent with the conditions of the current WAC language.

Is a Significant Analysis required for this rule?

Yes. While the rule has no financial cost it does have an effect on the medical director's ability to write and implement hospital policy and procedures that allow hospital staff to work to the full extent of their scope of practice.

Clearly state in detail the general goals and specific objectives of the statute that the rule implements.

In 2009, HB1071 was passed which amended chapter 71.05 RCW with the objective of adding psychiatric advanced registered nurse practitioners (PARNP) among mental health professionals who can recommend and provide certain mental health treatment related services, including signature authority for certain petitions and treatment.

In addition, HB 1259 was passed in 2015 which added a new section to chapter 18.79 RCW with the objective of allowing advanced registered nurse practitioner's to sign and attest to any certificates, cards, forms, or other required documentation that a physician may sign, so long as it is within the advanced registered nurse practitioner's scope of practice.

This purposed rule language clarifies that PARNPs, in accordance with the implemented legislation, and PAs may order restraint and seclusion in psychiatric hospitals.

Explain how the department determined that the rule is needed to achieve these general goals and specific objectives. Analyze alternatives to rulemaking and the consequences of not adopting the rule.

The current rule does not allow the medical director to write policies and procedures that would allow the PARNP or PA to practice to the full extent of their scope by ordering restraint and seclusion of patients. The objective of this revision is to give the medical director the ability to write policies and procedures allowing PARNPs and PAs to order restraint and seclusion that are consistent with conditions set forth in WAC.

Without rulemaking PARNPs and PAs are unable to order restraint and seclusion in a psychiatric hospital without going against the conditions set forth in the current WAC language. Consequently, there may be an impact to patients' continuity of care and hospital efficiencies.

Explain how the department determined that the probable benefits of the rule are greater than the probable costs, taking into account both the qualitative and quantitative benefits and costs and the specific directives of the statute being implemented.

WAC 246-322-010 Definitions

Rule Overview

The proposed rule defines "Psychiatric advanced registered nurse practitioner" to mean a person who is licensed as an advanced registered nurse practitioner under chapter 18.79 RCW and who is board certified in advanced practice psychiatric and mental health nursing.

Rule Cost/Benefit Analysis

The proposed definition only clarifies a term used throughout the chapter and does not meet the definition of a significant legislative rule. Therefore, the department is not analyzing the proposed change to this section.

WAC 246-322-180 Patient safety and seclusion care.

Rule Overview

The proposed rule allows, in addition to physicians licensed under chapters 18.71 and 18.57 RCW, a PARNR, licensed and board certified under chapter 18.79 RCW, or a PA, licensed under chapters 18.71A or 18.57A RCW, to authorize patient restraint or seclusion. The proposed rule also allows hospital staff to use a PARNR or a PA to examine each restrained or secluded patient and renew the order for every twenty-four continuous hours of restraint and seclusion.

Rule Cost/Benefit Analysis

There are no probable costs to the proposed rule change. The benefits of revising the rule to include allowing medical directors to create hospital policies that let PARNPs and PAs practice to their full scope, and creating efficiencies allowing for greater continuity of patient care and greater scheduling flexibility for hospitals and providers. The purposed rule language allows PARNPs and PAs to practice to their full scope in a psychiatric hospital. Because there is no probable cost any benefit is greater than the cost.

Identify alternative versions of the rule that were considered, and explain how the department determined that the rule being adopted is the least burdensome alternative for those required to comply with it that will achieve the general goals and specific objectives state previously.

The initial purposed language of the rule only included PARNPs to the rule language. Stakeholder's expressed the need to include PAs in the language so that all providers with prescriptive authority to order restraint and seclusion would explicitly be included. Because the intent of this revision is to reduce barriers and allow all providers to practice within their full scope of practice it is most effective to include language for both PARNPs and PAs.

Determine that the rule does not require those to whom it applies to take an action that violates requirements of another federal or state law.

The purposed revision would not require PARNPs or PAs to take action that would violate another federal or state law. Ordering restraint and seclusion is already within the scope of practice for these professions.

Determine that the rule does not impose more stringent performance requirements on private entities than on public entities unless required to do so by federal or state law.

The purposed revision does not impose more stringent performance requirements on private entities than on public entities. In fact, the purposed revision allows PARNPs and PAs to practice to their full scope which is allowed in other health care entities.

Determine if the rule differs from any federal regulation or statute applicable to the same activity or subject matter and, if so, determine that the difference is justified by an explicit state statute or by substantial evidence that the difference is necessary.

The purposed revision does not differ from any federal regulation or statute. In fact, the purposed revision would align the psychiatric hospital WAC with existing statute and regulation allowing PARNPs and PAs to order restraint and seclusion.

Demonstrate that the rule has been coordinated, to the maximum extent practicable, with other federal, state, and local laws applicable to the same activity or subject matter.

The Department of Social and Health Services (DSHS) has language in Evaluation and Treatment Certified Facilities WAC 388-865-0545 and WAC 388-865-0546 that is specific to physicians ordering restraint and seclusion. DSHS agreed to revise the language in these WACs by April of 2016 to reflect the revisions made to this rule. Until the DSHS rules are revised, DSHS also agreed to grant exemptions for psychiatric hospitals who implement this revised rule.